

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PATRICK ENGLERT, d/b/a PERFECT)	
HEALTH,)	
)	
Plaintiff,)	
)	Case No. 4:17-CV-00993 AGF
v.)	
)	
BEAUTYFIT, INC, a Florida Corporation)	JURY TRIAL DEMANDED
)	
Defendant.)	

BEAUTYFIT'S MOTION TO DISMISS

COMES NOW Defendant BeautyFit, Inc. ("BeautyFit"), by and through its undersigned counsel, and hereby moves to dismiss the Complaint for lack of personal jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(2) and for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). For the reasons stated more fully in BeautyFit's Memorandum in Support of this Motion, which is incorporated fully herein, the Complaint should be dismissed for lack of personal jurisdiction because BeautyFit is a Florida corporation that has not engaged in any act that would permit this Court to exercise jurisdiction over it under Missouri's long-arm statute, and any exercise of jurisdiction over BeautyFit would violate the Due Process Clause of the Fourteenth Amendment. Furthermore, the Complaint fails to state a claim for which relief can be granted for: (1) fraudulent misrepresentation under Missouri law; (2) a violation under the Missouri Merchandising Practices Act; and (3) breach of contract under Missouri law. In addition, the Complaint should be dismissed because BeautyFit is not a proper party to this action.

WHEREFORE, and for the reasons further set forth in the accompanying Memorandum in Support of this Motion, Defendant BeautyFit, Inc. respectfully requests this Court enter an Order pursuant to Federal Rules of Civil Procedure 12(b)(2) and 12(b)(6) dismissing the Complaint in its entirety with prejudice and for such other and further relief as the Court deems just and proper.

Dated: September 20, 2017

Respectfully submitted,

DOWD BENNETT LLP

By: /s/ Arsenio L. Mims

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Attorneys for Defendant BeautyFit, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2017, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system.

/s/ Arsenio L. Mims